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DEPARTMENT OF STATE

Argentina

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April 18, 1979

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TO: HA - Ms. Patt Derian

FROM: HA/HR - Patrick J. Flood

SUBJECT: The Human Rights Situation in Argentina

The following comments and conclusions are based on conversations in Buenos Aires last week with U.S. Mission personnel, Argentine general officers, Foreign Ministry officials, human rights organization leaders, Western European diplomats, the ICRC representative, lawyers, a newspaper editor, leaders of the Jewish community and of a Christian ecumenical group, victims of human rights violations, and family members of victims.

PEN DETAINEES

-- The armed services firmly believe that the intellectual authors and supporters of subversion are as responsible for terrorism as those who place bombs and fire bullets. The Secretaries-General of the Army and Navy (General Bignone and Admiral Fracassi) told me this in separate conversations when I asked why the GOA reportedly plans to continue to hold perhaps 1,500-1,800 PEN detainees for an indefinite period instead of releasing, trying, or sending them abroad. In a subtler way, Air Force Secretary General Lami Dozo affirmed the same view. Minister Juan Carlos Arlia of the Foreign Office specifically included Peronists, as a group, in the category of those responsible for Argentina's problems with terrorist violence in the years before the military coup.

-- The GOA is reviewing the dossiers of all PEN prisoners and has stepped up the release from PEN of those whom the military regards as less harmful, and the trial of those on whom they think they have enough evidence to convict.

ARGENTINA PROJECT (S200000044)

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Margaret P. Grafeld, Director

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-- In a large number of cases, however, the military "has information linking PEN detainees to subversion but lacks sufficient proof to try them in a civilian military court. Nevertheless, these people are too dangerous to release into society or even to send abroad." (Fracassi and Bignone)

Once abroad, the GOA feels, the ex-detainees will begin to cause trouble for Argentina. They might join with Montoneros or other anti-GOA forces to defame the GOA, or they might even sneak back into Argentina to carry out terrorist acts. (General Bignone said the killer of Under Secretary Padilla was an ex-detainee who had gone to Peru and returned surreptitiously to assassinate Padilla.) This is why, I was told by all three services, the Right-of-Option program will continue to move slowly.

(COMMENT: We should have an even better idea of GOA intentions in a few weeks, when decisions are due in a large number of cases in which the Embassy has issued certificates of eligibility for entry into the U.S.)

DISAPPEARANCES

-- It is believable that the Junta has issued orders (probably in late January or early February) that "black" operations must stop. At least General Viola told the Ambassador that such orders had been given. So far, we have two unexplained disappearance cases in March. The Ambassador said General Viola had checked with General Galtieri (Commander of the First Corps) and assured him that the Army was not responsible. Viola said he would now check with the police.

-- Army and Navy flag officers told me in separate conversations they regard summary execution as a legitimate weapon in the war against terrorism. They hedged on whether they believe that war is really over. "We are not completely out of trouble yet," said General Bignone. "It will take some additional time." They said categorically, though, that any current disappearances are not the work of the armed forces. If there are any disappearances, they said, they are the work of common criminals or other terrorists, or ordinary missing persons cases (runaways).

-- If the two March cases can be resolved, the GOA will have made a believable start on bringing the security forces un-er better control. However, it is too early to draw the conclusion that disappearances are a thing of the past.

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-- Mrs. Hector Abrales, the wife of an engineer and Peronist, abducted on January 22 by men claiming to be police (there was a witness to the abduction), said she had immediately asked personal friends in the military to help locate her husband. She heard nothing until mid-March when, over a period of a week, four independent military sources told her, "Do not bother to continue investigating the case. Your husband is dead." If this report is true, it demonstrates that, while abductions may have ceased, the killing goes on.

CLANDESTINE PRISONERS

-- The evidence of secret interrogation/transit and prison facilities is too strong to be put down to wishful thinking by families of the disappeared. There are too many first-hand accounts, too many cross-references and corroborating testimonies, too many verifiable details to deny the existence of these facilities. We know the exact location of some places. Some of them have been razed, and the prisoners moved to other locations. In at least one case, an eyewitness said the walls of the cells are still standing about waist-high.

General Viola denies the existence of secret detention facilities. I believe his statement is incorrect. They exist. Some are short-term interrogation centers, where detainees are tortured following arrest, before being: 1) killed; 2) placed under PEN; 3) sent to a long-term secret prison or prison farm; or 4) quietly released into Argentine society. We have more reports about the short-term centers than the long-term holding facilities, but we are hearing more and more about the latter.

How many people are being held secretly in the Gaucho Archipelago? Probably around 600, if we total the figures from the most probable of the many reports we receive.

Our problem is how to make use of the information we have about the secret prisoners in a way to make them reappear alive, a way which will avoid the GOA killing of them in order to "cover-up". Should we lay all our cards on the table? Should we urge the IAHC to present the information? We have to weigh the risks carefully. The goal is to save lives.

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I told the military officers I met that our goal is to see the clandestine prisoners, the living desaparecidos, reappear--and that for humanitarian reasons we urge them to take this step.

IACHR

Officials of the Permanent Assembly for Human Rights are worried about reports that the Commission visit will be postponed. Also, Ambassador Gerardo Schamis, a close friend of General Viola and Economy Minister Martinez de Hoz, said flatly that the visit will be postponed until August. I said that any postponement resulting from GOA action would cause a strong negative reaction in the United States and other major Western nations.

When the military officers I met mentioned the Commission, they spoke as if the visit were still on for late May-early June. I decided not to press them on this point in order not to identify my office and myself too closely with the Commission.

THE COURTS

The Courts have not exactly earned the medal for heroism, at least not yet:

-- The Courts have held that habeas corpus does not apply to PEN detainees. Specifically, the courts have held that the Executive is bound only to inform an inquiring court that an individual is being held under the state of siege for "links with subversion". The court will accept such a statement as proof of the legality of the detention, and close the habeas corpus petition in the case.

-- In the Smith III case, the Supreme Court held that the executive's refusal to respond to habeas corpus petitions in disappearance cases amounted to a denial of justice because failure to respond denied the Court the information it needs to carry out its Constitutional responsibilities to administer justice and protect individual rights. The Court just tossed the ball back to the Executive.

-- Warrant Officer Berrueta, the bone of contention between the civilian courts and the Army, is free on bail, a fact which weakens somewhat the image of judicial tenacity in the case.

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-- There is absolutely no mechanism within the Argentine legal system to trigger, at any time, the bringing of charges against PEN detainees, nor anything to ensure that they will ever be brought to trial. The Executive can postpone charges and trial indefinitely.

TORTURE

Any conclusion that torture has diminished is purely mathematical. If disappearances are less frequent, there are fewer people in that category being placed in the hands of the torturers. I am aware of nothing which would suggest that steps have been taken to eliminate torture as a standard part of the interrogation process, or that any torturers have been punished. Moreover, non-clandestine political arrests continue, and there is no reason to doubt that torture remains a routine element of their interrogation. I heard of some 1979 torture incidents during my stay in Buenos Aires.

PRISONER TREATMENT

There is an undeniable trend toward improving living conditions for PEN detainees. It seems equally certain that the main impetus for this welcome development is the pending visit of the IAHRC. Other motives include pressures by the U.S. and the ICRC. There are two main developments:

- 1) all PEN prisoners are being moved to four facilities: Caseros (Buenos Aires), Villa DeVoto, Rawson, and Juniu. All facilities are being repainted and otherwise "prettied up".
- 2) The Junta has reportedly just signed off on Argentina's first set of prison rules. These regulations will standardize the prison regimen throughout the country, and are designed to eliminate the worst abuses of the past.

RETURN TO CHILEAN RULE

There is just no serious thought being given to plans for a return to civilian government. It is something way off in the indefinite future. The major political parties are led by the same old faces, and have not put together an

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alternative program. The Peronists, still the most numerous political movement, could probably present a popular challenge to military rule if they: 1) developed a program to address the nation's problems; 2) brought some new leadership to the fore; and 3) reconciled the differences within the wide-ranging Justicialist Movement. But they are at square one on all three points. Meanwhile, the only viable alternative political force in the country is the labor movement, which is developing some cohesiveness and muscle--but its real strength remains to be tested.

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